



Social Security
Tribunal of Canada

Tribunal de la sécurité
sociale du Canada

Citation: *J. A. v Canada Employment Insurance Commission and X*, 2020 SST 288

Tribunal File Number: AD-20-48

BETWEEN:

J. A.

Appellant

and

Canada Employment Insurance Commission

Respondent

and

X

Added Party

SOCIAL SECURITY TRIBUNAL DECISION
Appeal Division

DECISION BY: Jude Samson

DATE OF DECISION: April 6, 2020

DECISION AND REASONS

DECISION

[1] With the agreement of the parties, I am allowing this appeal and sending the matter back to the General Division for reconsideration by a different member.

ANALYSIS

[2] J. A. is the Claimant in this case. He used to work for the Employer, X. In February 2018, the Claimant was involved in a heated exchange at work. The Claimant says that he was harassed and that his work environment became unsafe. As a result, he refused to work from the office until the Employer investigated and resolved the issue.

[3] In March, the Employer insisted that the Claimant return to work in the office. When he refused to follow this direction, the Employer dismissed the Claimant for abandoning his job.

[4] The Claimant later applied for Employment Insurance (EI) regular benefits. However, the Canada Employment Insurance Commission disqualified the Claimant from receiving EI benefits saying that he had lost his job because of his own misconduct.

[5] The Claimant appealed the Commission's decision to the Tribunal's General Division, but it dismissed his appeal. The Claimant then tried to appeal the General Division decision to the Tribunal's Appeal Division, but it refused his application for leave to appeal. Next, the Claimant successfully challenged the Appeal Division decision to the Federal Court.

[6] I have already granted leave to appeal in this case. I then invited the parties to participate in a pre-hearing conference, at which time they reached the following agreement:

- a) The General Division committed an error of law in the way that it applied the legal test for misconduct to the facts of the Claimant's case;¹ and

¹ This is a relevant error (or ground of appeal) under section 58(1)(b) of the *Department of Employment and Social Development Act*.

- b) The appropriate remedy in this case is to send the matter back to the General Division for reconsideration by a different member.

[7] Based on the information available to me, I am satisfied that I should allow the appeal in line with the agreement reached by the parties at the April 3, 2020, pre-hearing conference. As part of its review, the General Division may consider new evidence that the parties filed with the Appeal Division.²

Jude Samson
Member, Appeal Division

REPRESENTATIVES:	J. A., Appellant S. Prud'Homme, Representative for the Respondent G. T., Representative for the Added Party
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² For example, pages AD3-3 to 22.